

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF WEST VIRGINIA**

**SCOTT T. BALLOCK,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO.: 1:17-CV-52**

**Honorable Irene M. Keeley**

**ELLEN RUTH COSTLOW,  
STATE TROOPER MICHAEL KIEF,  
STATE TROOPER RONNIE M.  
GASKINS, AND STATE TROOPER  
CHRIS BERRY,**

**Defendants.**

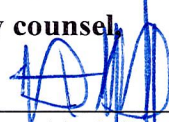
**DEFENDANT ELLEN RUTH COSTLOW'S 12(b)(6)  
MOTION TO DISMISS AMENDED COMPLAINT**

Defendant Ellen Ruth Costlow, by counsel, P. Todd Phillips, hereby moves this Honorable Court, pursuant to Rule 12(b)(6), 12(b) *Federal Rules of Civil Procedure*, to dismiss the Plaintiff's claims against her, on the ground that none of the Plaintiff's causes of action present a claim for which relief may be granted by this Court. The Plaintiff's four Federal civil rights claims against Ms. Costlow must be dismissed, *inter alia*, based upon the fact that she was not under color of law in the incidents alleged in support of the Plaintiff's Federal claims, and cannot be subject to an action under 42 U.S.C. § 1983. The Plaintiff's State law claims all fail to state a viable causes of action, with many time-barred by the applicable statutes of limitations.

WHEREFORE, Ms. Costlow prays that this Honorable Court dismisses all claims against her, with prejudice, awards her all fees and costs, including attorney's fees, incurred in defending against the Plaintiff's frivolous action, and any and all other such relief as the Court finds just and proper.

**RESPECTFULLY SUBMITTED,  
ELLEN RUTH COSTLOW,**

**By counsel,**



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P. Todd Phillips

*P. Todd Phillips & Associates*

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GASKINS, AND STATE TROOPER  
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**Defendants.**

**CERTIFICATE OF SERVICE**

I hereby certify that, on the 9<sup>th</sup> day of June 2017, I filed the foregoing "Notice of Appearance of Counsel for Defendant Ellen Ruth Costlow" with the Clerk of the Court, using the CM/ECF system, which will send notification of such filing to the following:

Mark G. Jeffries, Esq.  
STEPTOE & JOHNSON, PLLC  
400 White Oaks Boulevard  
Bridgeport, WV 26330-4500

Montè L. Williams  
STEPTOE & JOHNSON, PLLC  
PO Box 1616  
Morgantown, WV 26507-1616

*Counsel for Defendants State Trooper Michael Kief, State Trooper Ronnie M. Gaskins and State Trooper Chris Berry*

I further certify that, on the 9<sup>th</sup> day of June 2017, I served the same upon Plaintiff  
Scott T. Ballock, *Pro se*, via U.S. mail, by depositing a true copy thereof, postage  
prepaid, in an envelope addressed as follows:

Scott T. Ballock  
51 Summit Overlook Drive  
Morgantown, WV 26508

*Pro Se Plaintiff*

**RESPECTFULLY SUBMITTED,**



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